



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 1, 2018

Mr. Rahat Huq  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2018-27608

Dear Mr. Huq:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 735841 (GC No. 25465).

The City of Houston (the "city") received a request for the city's Hurricane Harvey After Action Report. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments submitted by a representative of the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information protected by chapter 418 of the Government Code. As part of the Texas Homeland Security Act (the "HSA"), sections 418.176 through 418.182 were added to chapter 418 of the Government Code. These provisions make confidential certain information related to terrorism. Section 418.176(a) of the Government Code provides:

Information is confidential if the information is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing,

detecting, responding to, or investigating an act of terrorism or related criminal activity and:

- (1) relates to staffing requirements of an emergency response provider, including law enforcement agency, a fire-fighting agency, or an emergency services agency;
- (2) relates to a tactical plan of the provider; or
- (3) consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.

*Id.* § 418.176(a). Section 418.177 provides as follows:

Information is confidential if the information:

- (1) is collected, assembled, or maintained by or for a governmental entity for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and
- (2) relates to an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

*Id.* § 418.177. The fact that information may relate to a governmental body's security concerns does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute's key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any exception to disclosure, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive records fall within the scope of the claimed provision. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You inform us the information at issue consists of information collected, assembled and maintained by the city for the purposes of responding to emergency situations. You state the information at issue consists of "a cross-departmental after action report and improvement plans and the [c]ity's coordinated efforts with law enforcement agencies and other governmental entities in preparation for and responding to a natural disaster." You also state the information at issue "was gathered and is maintained by the [c]ity for the purpose of preparing for and responding to hurricanes and other natural disasters." You further state "a terrorist or other criminal element could exploit the requested information in planning mass

attacks, in order to incite panic and enhance the likelihood of death among emergency responders and members of the public.” You assert release of the information at issue “would significantly impact the [c]ity’s ability to plan and deliver public safety services to the citizens in response to a natural disaster, an act of terrorism or related criminal activity.” Based upon your representations and our review, we find some of the information at issue, which we marked, relates to the staffing requirements or tactical plan of an emergency response provider that was collected, assembled, or maintained for the purpose of responding to an act of terrorism or related activity; consists of information collected, assembled, or maintained by the city for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity; or relates to the assessment by the city of the risk or vulnerability of persons or property to an act of terrorism or related criminal activity. *See id.* § 418.176(a)(1)-(2), .177. In addition, we marked a telephone number that was collected, assembled, or maintained by or for a governmental entity for the purpose of responding to an act of terrorism or related criminal activity. *See id.* § 418.176(a)(3). Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with sections 418.176 and 418.177 of the Government Code. However, we find you failed to establish the remaining information is confidential under section 418.176 or section 418.177 of the Government Code. Therefore, the city may not withhold the remaining information under section 552.101 of the Government Code in conjunction with section 418.176 or section 418.177 of the Government Code. The city must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James M. Graham  
Assistant Attorney General  
Open Records Division

JMG/eb

Ref: ID# 735841

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)